

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Case No. 2:11-CR-48 JCM (CWH)

Plaintiff(s),

V.

NANCY MAGENO,

Defendant(s).

ORDER

10

12 Presently before the court is the government's motion to correct transcript. (Doc. # 350).
13 The government represents that it has conferred with defendant's counsel in this matter and that
14 he has no opposition to correcting the transcript. (Doc. # 350).

15 On August 11, 2014, the United States Court of Appeals for the Ninth Circuit reversed
16 the jury conviction from the trial in *United States v. Mageno*, based on what the court found to be
17 a prejudicial misstatement of Burgos's testimony by prosecutors in closing arguments. *United*
18 *States v. Mageno*, 2014 WL 3893792 (9th Cir. 2014).

19 After the 9th circuit decided the case, the government moved to obtain a copy of the
20 audio recording from the proceeding. (Doc. # 348). The court granted the motion. (Doc. # 349).
21 The government reviewed the audio recording and found that the reporter's transcript contains
22 errors. Accordingly, the government determined that the prosecutors' statements in closing
23 arguments were accurate.

24 The government now requests that the court correct the errors in the transcript and certify
25 and forward a corrected record to the court of appeals. Specifically, the government requests
26 that the court enter an order substituting the text in Exhibit 3 of its motion for the text at page 24,
27 line 12, to page 26, line 9, of the original transcript. (Doc. # 294).

1 Federal Rule of Appellate Procedure 10(e)(1) states: “If any difference arises about
2 whether the record truly discloses what occurred in the district court, the difference must be
3 submitted to and settled by that court and the record conformed accordingly.” Fed. R. App. P.
4 10(e)(1).

5 Further, Federal Rule of Appellate Procedure 10(e)(2) states that “[i]f anything material
6 to either party is omitted from or misstated in the record by error or accident, the omission or
7 misstatement may be corrected and a supplemental record may be certified and forwarded” by
8 the district court. Fed. R. App. P. 10(e)(2).

9 Based on the government's representations and having reviewed the record, the court
10 finds it appropriate to grant the government's motion to correct transcript.

11 | Accordingly,

12 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the government's
13 motion to correct transcript, (doc. # 350), be, and the same hereby is, GRANTED.

14 IT IS FURTHER ORDERED that the text in Exhibit 3 of the government's motion, (doc.
15 # 350-3), be substituted for the text from page 24, line 12, through page 26, line 9, of the original
16 transcript, (doc. # 294).

17 DATED August 29, 2014.

James C. Mahan
UNITED STATES DISTRICT JUDGE